


IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY  J.C.
05 APR -4 AM 11:3

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. 04-20230 B


CHRISTOPHER ANDERSON,

Defendant.


ROBERT R. DI TROLIO
CLERK, U.S. DIST. CT.
W.D. OF TN, MEMPHIS

ORDER DENYING DEFENDANT'S MOTION TO EXTEND TIME TO APPEAL

Before the Court is the February 22, 2005 motion of the Defendant, Christopher Anderson, for an extension of the time to file a notice of appeal to the Sixth Circuit Court of Appeals. However, as the Government has noted, the motion is untimely. The judgment in this case was entered on December 16, 2004. Under Rule 4(b)(A), "a defendant's notice of appeal must be filed in the district court within 10 days after the . . . judgment." Fed. R. App. P. 4(b)(A)(1). The Court may "[u]pon a finding of excusable neglect or good cause . . . --before or after the time has expired, with or without motion and notice--extend the time to file a notice of appeal for a period not to exceed 30 days from the expiration of the [10 day period]." Fed. R. App. P. 4(b)(4). In United States v. Tarrant, 158 F.3d 946, 946 (6th Cir. 1998), cert. denied, 525 U.S. 1168, 119 S.Ct. 1089, 143 L.Ed.2d 90 (1999), the Sixth Circuit stated that, based on Rule 4, "a district court has the discretion to consider a motion to extend the time for appeal beyond the 10-day deadline *if and only if* it is filed within 30 days after the 10-day deadline, or 40 days from the date of the entry of judgment." (emphasis in original). Thus, as the motion to extend filed by the Defendant some 68 days after the entry of judgment is far out of time, it is hereby DENIED.



IT IS SO ORDERED this 1st day of April, 2005.



J. DANIEL BREEN
UNITED STATES DISTRICT JUDGE



Notice of Distribution

This notice confirms a copy of the document docketed as number 86 in case 2:04-CR-20230 was distributed by fax, mail, or direct printing on April 4, 2005 to the parties listed.

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Honorable J. Breen
US DISTRICT COURT